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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,045	10/16/2001	Werner Obrecht	Mo6686/LeA 34,923	6800

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BAYER CORPORATION
PATENT DEPARTMENT
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EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
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1712

8

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,045

Applicant(s)

OBRECHT ET AL.

Examiner

David Buttner

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6, 7.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The independent claims use of "phenolic resin adducts" is confusing. Phenol, resorcinol and formaldehyde later called for as species of "phenolic resin adducts" are not "resins" and are not "adducts" of anything. These three species are simple low Mw compounds.

Claim 5's "paraformaldehyde" and "hexamethylene tetramine" are not formaldehyde. Formaldehyde is a single specific compound.

Claim 6's "phenol", "resorcinol" and "Formaldehyde" are not condensed phenolic resins. These three species are simple low Mw compounds.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the DE 19701487 Patent.

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The reference exemplifies (3A) blends of natural rubber, NBR gel, vulkadur RB, Cohedur H30 etc. Vulkadur RB is a phenol-formaldehyde polymer. Cohedur H30 is a combination of silica and hexamethylene tetramine (see applicant's specification page 13, line 7). Bis(triethoxysilylpropyl) tetrasulfare can be included (page 3, line 65).

Claims 1, 3, 4, 6-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Takashima EP 1020492 Patent.

The reference blends uncrosslinked rubber such as NBR with a particulate crosslinked rubber. Phenol-formaldehyde resins (page no. 7, line 39) and phenolic compounds (page 7, line 50; page 8, line 41) can be included. Amounts of the materials are not given, however applicant's 0.1-50 parts encompasses the conventional amounts.

Claims 1, 3, 4, 6-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Takashima EP 1020492 in view of Obrecht '488.

Takashima does not give any specific amounts for his suggested antiaging inhibitors (stabilizers) and crosslinking agents.

Obrecht (col. 4, lines 35-47) states conventional amounts are 0.1-50%. It would have been obvious to use phenolic stabilizers and/or crosslinkers at 0.1-50% in Takashima's composition.

Claims 1-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Doran Patent in view of Obrecht '488 or '891.

Doran teaches tire tread compositions of rubber, silica, polyamine, aromatic hydroxy compound and methylene donor. The aromatic hydroxy can be phenol or resorcinol (claim 1). The methylene donor may be hexamethylene tetramine or paraformaldehyde (claim 1).

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Doran does not suggest including a crosslinked rubber gel in the tread composition.

Inclusion of such gels are know to improve rolling resistance and wet grip (Obrecht '891 col. 1, lines 40-49; Obrecht '488 col. 1, lines 30-38). It would have been obvious to include these rubber gels in Doran's tread for the expected improvement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 703-308-2403. The examiner can normally be reached on Weekdays from 10:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

DAVID J. BUTTNER
PRIMARY EXAMINER

D. Butter/mn
December 2, 2002

